

AMENDED IN ASSEMBLY AUGUST 29, 1997

AMENDED IN SENATE MAY 5, 1997

AMENDED IN SENATE APRIL 16, 1997

SENATE BILL

No. 1305

Introduced by Senators Sher and Peace

February 28, 1997

An act to amend Section 25320 of, and to add Chapter 4.7 (commencing with Section 25380) to Division 15 of, the Public Resources Code, and to add Article ~~12.6 (commencing with Section 396.7)~~ to Chapter 14 (commencing with Section 398.1) to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1305, as amended, Sher. Public utilities.

Existing law in the Public Resources Code requires natural gas producers, gas utilities, and electric utilities to provide specified information relating to the amount of gas and electricity generated, supplied, and demanded, to the Public Utilities Commission.

This bill would establish an exemption for providing the specified information if information required pursuant to the program established by this bill is supplied to the Public Utilities Commission.

Existing law, the Public Utilities Act, provides for the furnishing of utility services, including furnishing electricity, by privately owned public utilities subject to the jurisdiction

and control of the Public Utilities Commission and similar services by publicly owned public utilities.

The bill would establish a program under which entities offering electric services disclose accurate, reliable, and simple to understand information on the generation attributes of the electricity they propose to sell.

Since existing law makes any public utility, as defined, and any person or entity other than a public utility, that violates the Public Utilities Act guilty of a misdemeanor, and the provisions of the bill would be within the act, this bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Article 12.6 (commencing with Section~~
2 ~~396.7) is added to Chapter 2.3 of Part 1 of Division 1 of the~~
3 ~~Public Utilities Code, to read:~~
4
5 ~~Article 12.6. Electrical Generation Source Information~~
6
7 ~~396.7. (a) The Legislature finds and declares that as~~
8 ~~electric services are subjected to competition beginning~~
9 ~~in 1998, representations made by entities offering~~
10 ~~electrical services regarding the generation attributes of~~
11 ~~electric services may confuse potential customers.~~
12 ~~(b) The purpose of this article is to establish a program~~
13 ~~under which entities offering electric services in~~
14 ~~California disclose accurate, reliable, and simple to~~
15 ~~understand information on the generation attributes of~~
16 ~~the electricity they propose to sell.~~

1 ~~396.8. (a) Any entity that offers electric services to~~
2 ~~residential and small commercial customers shall disclose~~
3 ~~all of the following information to the customers, in a~~
4 ~~format established by the commission pursuant to~~
5 ~~subdivision (b), prior to entering into an agreement for~~
6 ~~the provision of the services:~~

7 ~~The generation source or sources of the electricity~~
8 ~~based upon annual energy purchased, to be supplied by~~
9 ~~the entity, described as a percentage of one or more of the~~
10 ~~following categories:~~

11 ~~(1) Nuclear.~~

12 ~~(2) Fossil, including natural gas, oil, or coal.~~

13 ~~(3) Hydroelectric.~~

14 ~~(4) Renewable.~~

15 ~~(5) The Power Exchange. If the entity proposes to~~
16 ~~supply electricity through the Power Exchange, the~~
17 ~~entity shall provide a description of the preceding year's~~
18 ~~historical system power content of electricity purchased~~
19 ~~through the Power Exchange.~~

20 ~~(b) On or before January 1, 1998, the commission shall~~
21 ~~adopt regulations that include, but are not limited to, the~~
22 ~~specification of a standard format for the submittal of~~
23 ~~information pursuant to subdivision (a). The regulations~~
24 ~~shall also specify any information the commission deems~~
25 ~~necessary for the purposes of maintaining and verifying~~
26 ~~the information required to be disclosed by entities~~
27 ~~pursuant to subdivision (a).~~

28 ~~SEC. 2.—~~

29 ~~SECTION 1. Section 25320 of the Public Resources~~
30 ~~Code is amended to read:~~

31 ~~25320. (a) By April 1, 1975, and every three months~~
32 ~~thereafter, each electric utility, gas utility, major natural~~
33 ~~gas producer, and major marketer of natural gas doing~~
34 ~~business within this state shall submit the information~~
35 ~~described in this section to the commission for analysis.~~
36 ~~The information shall be based on actual records or~~
37 ~~projections and shall include data from the prior quarter~~
38 ~~and estimates for the period ending one year from the~~
39 ~~reporting date. The information shall be used by the~~
40 ~~commission in order, among other things, that it may~~

1 properly assess the nature and extent of any energy
2 shortage, the economic and environmental impacts of
3 any energy shortage, and obtain information in a manner
4 which will enable the state to take actions to meet or
5 mitigate any energy shortage.

6 Any ~~such~~ information which is also required to be
7 reported to other governmental agencies may be
8 submitted to the commission in fulfillment of the
9 requirements of this section. The commission may
10 require additional information if necessary to carry out
11 the provisions of this section.

12 (b) Each natural gas producer shall submit
13 information to the commission specifying, by month, the
14 amount of gas produced, stored or withdrawn from
15 storage, the available supply, and the amounts of gas
16 supplied to classes of major uses, as designated by the
17 commission.

18 (c) Each gas utility shall submit information to the
19 commission specifying, by month, the utility's sources and
20 amounts of supply, the amounts of demand and amounts
21 supplied to all major uses, both firm and interruptible, as
22 designated by the commission, and amounts of gas stored
23 or withdrawn from storage, and exchanges, imports into
24 the state, and exports from the state of gas supplies.

25 (d) Each electric utility shall submit information to
26 the commission specifying, by month, the utility's amount
27 of electricity generated and generating capacity by type
28 of generation, amounts of exchanges and transfers of
29 electricity, amounts of oil and gas required to generate
30 electricity, indicating the source of supply, including
31 inventory on hand, and the amounts of electricity
32 supplied for all major uses, as designated by the
33 commission. *The commission shall not require the*
34 *submission of the information specified in this subdivision*
35 *provided that the information required to be submitted*
36 *to the system operators pursuant to Article 14*
37 *(commencing with Section 398.1) of Chapter 2.3 of Part*
38 *1 of Division 1 of the Public Utilities Code is made*
39 *available to the commission.*

SEC. 2. Chapter 4.7 (commencing with Section 25380) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 4.7. AIR EMISSION IMPACTS OF ELECTRIC
UTILITY RESTRUCTURING

25380. (a) The Legislature finds and declares all of the following:

(1) There is a need for reliable, accurate, and timely information on the location, fuel type, and criteria pollutants emitted, as provided for in Section 25382, for the purpose of conducting research on the air emission impacts of electric utility restructuring.

(2) The provision of information described in paragraph (1) at a level of detail corresponding to the measurement of kilowatt hour generation is necessary for research on the air emission impacts of electric utility restructuring.

(3) The information described in paragraph (1) may be adequately provided by estimation and algorithmic methods rather than by actual measurement.

(4) The information described in paragraph (1) will enhance the veracity of environmental claims that may be made by retail suppliers, by providing means for auditing and verification of such claims.

(b) It is the intent of the Legislature to minimize the reporting burden and cost of reporting that this chapter imposes on electric generators. Consolidation of reporting requirements and data bases will assist in minimizing these burdens and costs. Wherever possible information provided pursuant to the requirements of this chapter should be substituted for other governmental reporting requirements.

25381. The definitions set forth in this section shall govern the construction of this chapter.

(a) "System operator" means a California entity that coordinates a daily schedule and dispatch activities for the purpose of system operations.

(b) “Emission factor” means the amount of a pollutant emitted per unit of energy generated (pounds per kilowatt hour). Emission factor may vary with generator operating level and fuel type.

25382. (a) (1) Beginning December 31, 1998, and annually thereafter, each generating facility that provides meter data to system operators shall inform the system operator of the location, fuel type, and criteria pollutants emitted. The generator will make sufficient information available for purposes of establishing emission factors for the following:

(A) Oxides of nitrogen.

(B) Oxides of sulfur.

(C) Nonmethane, nonethane reactive organic gases.

(D) Particulate matter.

(2) Emission factors shall apply to the electricity-related portion of emissions in the case of cogeneration.

(3) Generating facilities may provide emission factors that account for the net emissions, provided that the method or algorithm used is disclosed to the system operators.

(4) In addition to the net emission factors that may be provided pursuant to paragraph (3), generating facilities shall provide emission factors that account for actual emissions.

(5) If emission factors have changed since the last time reported, the time of the change shall also be reported, as well as any emission factors that applied during interim periods.

(b) Any of the information described in subdivision (a) that is also required to be reported to other governmental agencies may be submitted to the system operators in fulfillment of the requirements of this section.

(c) Generators or other entities that do not provide meter data to system operators and that enter into electricity transactions that the system operators meter at interface points may, at the generators’ or entities’ option, provide to the system operators information

1 specified in subdivision (a), and the kilowatt hours to
2 which this information applies, provided that these
3 kilowatt hours are metered and verifiable.

4 25383. On or before July 1, 1998, the California Energy
5 Resources Conservation and Development Commission
6 shall specify guidelines and standard formats, based on
7 the requirements of this chapter and subject to public
8 hearing, for the submittal of information pursuant to this
9 chapter. These guidelines shall ensure that access to this
10 information does not interfere with effective operation of
11 the electricity system.

12 25384. Trade secrets as defined in subdivision (d) of
13 Section 3426.1 of the Civil Code contained in the
14 information provided to the system operators pursuant to
15 Section 25382 shall be treated as confidential. These data
16 may be disclosed only by the system operators and only
17 by authorization of the generator except that the
18 California Energy Resources Conservation and
19 Development Commission shall have authorization to
20 access these data, shall consider all these data to be trade
21 secrets, and shall only release these data in an aggregated
22 form such that trade secrets cannot be discerned. The
23 California Energy Resources Conservation and
24 Development Commission shall determine the best
25 means to make public the results of its research, taking
26 into account the requirements of this section.

27 25385. Beginning January 1, 1999, or as soon as
28 practicable thereafter, the California Energy Resources
29 Conservation and Development Commission shall have
30 authorization to access each of the following:

31 (a) Electricity generated in kilowatt hours by hour by
32 generator.

33 (b) Emission factors specified in subdivision (a) of
34 Section 25382.

35 (c) Imported electricity metered at the interface
36 points in kilowatt hours by hour.

37 (d) Emission factors and kilowatt hour data provided
38 pursuant to subdivision (c) of Section 25382.

39 25386. Beginning September 30, 1999, and every two
40 years thereafter, the California Energy Resources

1 Conservation and Development Commission, in
2 conjunction with the California Air Resources Board and
3 affected air districts, shall issue a report to the Legislature
4 assessing the air emission effects of electric utility
5 restructuring.

6 SEC. 3. Article 14 (commencing with Section 398.1)
7 is added to Chapter 2.3 of Part 1 of Division 1 of the Public
8 Utilities Code, to read:

9
10 Article 14. Disclosure of Sources of Electrical
11 Generation
12

13 398.1. (a) The Legislature finds and declares that
14 there is a need for reliable, accurate, and timely
15 information regarding fuel sources for electric
16 generation offered for retail sale in California.

17 (b) The purpose of this article is to establish a program
18 under which entities offering electric services in
19 California disclose accurate, reliable, and simple to
20 understand information on the sources of energy that are
21 used to provide electric services.

22 398.2. The definitions set forth in this section shall
23 govern the construction of this article.

24 (a) "System operator" means a California entity that
25 coordinates a daily schedule and dispatch activities for
26 the purpose of system operations.

27 (b) "Specific purchases" means electricity
28 transactions which are traceable to specific generation
29 sources by any auditable contract trail or equivalent that
30 provides commercial verification that the electricity
31 source claimed has been sold once and only once to a
32 retail consumer. Retail suppliers may rely on annual data
33 to meet this requirement, rather than hour-by-hour
34 matching of loads and resources.

35 (c) "Net system power" means the mix of electricity
36 fuel source types established by the California Energy
37 Resources Conservation and Development Commission
38 representing the sources of electricity consumed in
39 California that are not disclosed as specific purchases
40 pursuant to Section 398.4.

1 398.3. (a) Beginning January 1, 1998, or as soon as
2 practicable thereafter, each generator that provides
3 meter data to a system operator shall report to the system
4 operators the fuel type or fuel types and fuel consumption
5 by fuel type by month on a quarterly basis.

6 (b) The California Energy Resources Conservation
7 and Development Commission shall have authorization
8 to access the electricity generation data in kilowatt hours
9 by hour for each facility that provides meter data to the
10 system operator, and the fuel type or fuel types and fuel
11 consumption by fuel type, and kilowatt hours by hour at
12 interface points.

13 (c) Trade secrets as defined in subdivision (d) of
14 Section 3426.1 of the Civil Code contained in the
15 information provided to the system operators pursuant to
16 this section shall be treated as confidential. These data
17 may be disclosed only by the system operators and only
18 by authorization of the generator except that the
19 California Energy Resources Conservation and
20 Development Commission shall have authorization to
21 access these data, shall consider all these data to be trade
22 secrets, and shall only release these data in an aggregated
23 form such that trade secrets cannot be discerned.

24 398.4. (a) Every retail supplier that makes an
25 offering to sell electricity that is consumed in California
26 shall disclose its electricity sources. A retail supplier that
27 does not make any claims that identify its electricity
28 sources as different than net system power may disclose
29 net system power. Every retail supplier that makes an
30 offering to sell electricity that is consumed in California
31 and makes any claims that identify any of its electricity
32 sources as different than net system power shall disclose
33 these sources as specific purchases.

34 (b) The disclosures required by this section shall be
35 made to potential end-use consumers in all
36 product-specific written promotional materials that are
37 distributed to consumers by either printed or electronic
38 means, except that advertisements and notices in general
39 circulation media shall not be subject to this requirement.

1 (c) The disclosures required by this section shall be
2 made at least quarterly to end-use consumers of the
3 offered electricity.

4 (d) The disclosures required by this section shall be
5 made separately for each offering made by the retail
6 supplier.

7 (e) On or before January 1, 1998, the California Energy
8 Resources Conservation and Development Commission
9 shall specify guidelines for the format and means for
10 disclosure required by this section, based on the
11 requirements of this article and subject to public hearing.

12 (f) The costs of making the disclosures required by this
13 section shall be considered to be generation-related.

14 (g) The disclosures required by this section shall be
15 expressed as a percentage of annual sales derived from
16 each of the following categories, unless no specific
17 purchases are disclosed, in which case only the first
18 category shall be disclosed:

19 (1) Net system power.

20 (2) Specific purchases.

21 (h) (1) Each of the categories specified in subdivision
22 (g) shall be additionally identified as a percentage of
23 annual sales that is derived from each fuel type of the
24 categories specified as follows:

25 (A) Coal.

26 (B) Large hydroelectric (greater than 30 megawatts).

27 (C) Natural gas.

28 (D) Nuclear.

29 (E) Other.

30 (F) Eligible renewables, which means renewable
31 resource technologies defined as electricity produced
32 from other than a conventional power source within the
33 meaning of Section 2805, provided that a power source
34 utilizing more than 25 percent fossil fuel may not be
35 included, shall be additionally identified as a percentage
36 of annual sales that is derived from each fuel type of the
37 subcategories specified as follows:

38 (i) Biomass and waste.

39 (ii) Geothermal.

1 (iii) *Small hydroelectric (less than or equal to 30*
2 *megawatts).*

3 (iv) *Solar.*

4 (v) *Wind.*

5 (2) *The category “Other” shall be used for fuel types*
6 *other than those listed above that represent less than 2*
7 *percent of net system power. The California Energy*
8 *Resources Conservation and Development Commission*
9 *may specify additional categories or change these*
10 *categories, consistent with the requirements of this*
11 *article and subject to public hearing, if it determines that*
12 *the changes will facilitate the disclosure objectives of this*
13 *section.*

14 (i) *All electricity sources disclosed as specific*
15 *purchases shall meet the requirements of subdivision (b)*
16 *of Section 398.2.*

17 (j) *Specific purchases identified pursuant to this*
18 *section shall be from sources connected to the Western*
19 *Systems Coordinating Council interconnected grid.*

20 (k) *Net system power shall be disclosed for the most*
21 *recent calendar year available. Disclosure of net system*
22 *power shall be accompanied by this qualifying note: “The*
23 *State of California determines this net system power mix*
24 *annually; your actual electricity purchases may vary.”*
25 *The California Energy Resources Conservation and*
26 *Development Commission may modify this note,*
27 *consistent with the requirements of this article and*
28 *subject to public hearing, if it determines that the*
29 *changes will facilitate the disclosure objectives of this*
30 *section.*

31 (l) *For each offering made by a retail supplier for*
32 *which specific purchases are disclosed, the retail supplier*
33 *shall disclose projected specific purchases for the current*
34 *calendar year. Projected specific purchases need not be*
35 *disclosed by numerical percentage at the subcategory*
36 *level identified in subparagraph (F) of paragraph (1) of*
37 *subdivision (h). On or before April 15, 1999, and annually*
38 *thereafter, every retail supplier that discloses specific*
39 *purchases shall also disclose to its customers, separately*
40 *for each offering made by the retail supplier, its actual*

1 specific purchases for the previous calendar year
2 consistent with information provided to the California
3 Energy Resources Conservation and Development
4 Commission pursuant to Section 398.5. Disclosure of
5 projected specific purchases and actual specific
6 purchases shall each be accompanied by statements
7 identifying whether the data are projected or actual, as
8 developed by the California Energy Resources
9 Conservation and Development Commission, subject to
10 public hearing.

11 398.5. (a) Retail suppliers that disclose specific
12 purchases pursuant to Section 398.4 shall report on March
13 1, 1999, and annually thereafter, to the California Energy
14 Resources Conservation and Development Commission,
15 for each electricity offering, for the previous calendar
16 year each of the following:

17 (1) The kilowatt hours purchased, by generator and
18 fuel type during the previous calendar year, consistent
19 with the meter data, including losses, reported to the
20 system operator.

21 (2) For each electricity offering the kilowatt hours
22 sold at retail.

23 (3) For each electricity offering the disclosures made
24 to consumers pursuant to Section 398.4.

25 (b) Information submitted to the California Energy
26 Resources Conservation and Development Commission
27 pursuant to this section that is a trade secret as defined in
28 subdivision (d) of Section 3426.1 of the Civil Code shall
29 not be released except in an aggregated form such that
30 trade secrets cannot be discerned.

31 (c) On or before January 1, 1998, the California Energy
32 Resources Conservation and Development Commission
33 shall specify guidelines and standard formats, based on
34 the requirements of this article and subject to public
35 hearing, for the submittal of information pursuant to this
36 article.

37 (d) In developing the rules and procedures specified
38 in this section, the California Energy Resources
39 Conservation and Development Commission shall seek to

1 *minimize the reporting burden and cost of reporting that*
2 *it imposes on retail suppliers.*

3 *(e) On or before October 15, 1999, and annually*
4 *thereafter, the California Energy Resources*
5 *Conservation and Development Commission shall issue*
6 *a report comparing information available pursuant to*
7 *Section 398.3 with information submitted by retail*
8 *suppliers pursuant to this section, and with information*
9 *disclosed to consumers pursuant to Section 398.4. The*
10 *California Energy Resources Conservation and*
11 *Development Commission may also use other means as*
12 *are available, including a tradable credit system, to fulfill*
13 *the requirements of this subdivision. This report shall be*
14 *forwarded to the California Public Utilities Commission.*

15 *(f) Beginning April 15, 1999, and annually thereafter,*
16 *the California Energy Resources Conservation and*
17 *Development Commission shall issue a report calculating*
18 *net system power. The California Energy Resources*
19 *Conservation and Development Commission will*
20 *establish the generation mix for net generation imports*
21 *delivered at interface points and metered by the system*
22 *operators. The California Energy Resources*
23 *Conservation and Development Commission shall issue*
24 *an initial report calculating preliminary net system*
25 *power for calendar year 1997 on or before January 1, 1998.*
26 *This report shall be updated on or before October 15,*
27 *1998.*

28 *SEC. 4. No reimbursement is required by this act*
29 *pursuant to Section 6 of Article XIII B of the California*
30 *Constitution because the only costs that may be incurred*
31 *by a local agency or school district will be incurred*
32 *because this act creates a new crime or infraction,*
33 *eliminates a crime or infraction, or changes the penalty*
34 *for a crime or infraction, within the meaning of Section*
35 *17556 of the Government Code, or changes the definition*
36 *of a crime within the meaning of Section 6 of Article*
37 *XIII B of the California Constitution.*

38 *Notwithstanding Section 17580 of the Government*
39 *Code, unless otherwise specified, the provisions of this act*
40 *shall become operative on the same date that the act*

¹ takes effect pursuant to the California Constitution.
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